

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED SPECIALTY INSURANCE COMPANY,	§	
Plaintiff,	§	
v.	§	EP-16-CV-00469-DCG
GOLDEN GATE TRANSPORT, LLC, KAREL GALLART, and SANDRA GALLART,	§	
Defendants.	§	

ORDER DISMISSING CASE WITHOUT PREJUDICE

Presently before the Court is Plaintiff United Specialty Insurance Company's ("Plaintiff") "Notice of Resolution of Case" ("Notice") (ECF No. 9), filed on January 20, 2017, and Plaintiff's "Unopposed Motion to Dismiss" ("Plaintiff's Motion") (ECF No. 10), filed on February 3. Plaintiff notifies the Court that the underlying lawsuit to this declaratory judgment action has been resolved, *see* Notice at 1, and now moves the Court to dismiss all claims without prejudice, with each party bearing their own costs, *see* Pl.'s Mot. at 1, *see also id.*, Ex. 1, ECF No. 10-1.

Federal Rule of Civil Procedure 41(a) provides several ways to voluntarily dismiss an action. *See Fed. R. Civ. P. 41(a).* A plaintiff may dismiss an action "without a court order by filing . . . a notice of dismissal before the opposing party serves either an answer or a motion for summary judgement." Fed. R. Civ. P. 41(a)(1)(A)(i). In addition, the court may issue an order dismissing an action "at the plaintiff's request . . . on terms that the court considers proper." *See Fed. R. Civ. P. 41(a)(2).*

Here, Plaintiff seeks to dismiss all claims without prejudice. *See* Pl.'s Mot. at 1, *see also*

id., Ex. 1. Plaintiff's Motion was filed prior to an answer by Defendants Karel Gallart and Sandra Gallart. Furthermore, Plaintiff informs the Court that Defendant Golden Gate Transport, LLC, who has filed an Answer, *see* ECF No. 7, is unopposed to the instant motion. *See* Pl.'s Mot. at 1–2. Therefore, pursuant to Federal Rule of Civil Procedure 41(a), the Court will dismiss this action without prejudice.¹ Accordingly, the Court enters the following orders:

IT IS HEREBY ORDERED that Plaintiff's "Unopposed Motion to Dismiss" (ECF No. 10) is **GRANTED**.

IT IS THEREFORE ORDERED THAT any and all claims against Defendants Golden Gate Transport, LLC, Karel Gallart, and Sandra Gallart are **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED THAT the Clerk of the Court shall **TERMINATE** Defendants Golden Gate Transport, LLC, Karel Gallart, and Sandra Gallart from the above-captioned and numbered cause.

IT IS ALSO ORDERED THAT any and all pending motions are **DENIED AS MOOT**.

IT IS FINALLY ORDERED THAT the Clerk of the Court **SHALL CLOSE** this case.

So ORDERED and SIGNED this 7⁺ day of February 2017.



DAVID C. GUADERAMA
UNITED STATES DISTRICT JUDGE

¹ Defendants Karel Gallart and Sandra Gallart are dismissed pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Defendant Golden Gate Transport, LLC is dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2).